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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/671,770	09/28/2000	Geoffrey Owen Blandy	AUS9-2000-0570-US1	7435
35525	7590	08/03/2004	EXAMINER	
IBM CORP (YA)			ALI, SYED J	
C/O YEE & ASSOCIATES PC				
P.O. BOX 802333			ART UNIT	
DALLAS, TX 75380			2127	
			PAPER NUMBER	
			DATE MAILED: 08/03/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/671,770	Applicant(s) BLANDY ET AL.	
	Examiner Syed J Ali	Art Unit 2127	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 1-30.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


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Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues on page 9 that "Crelier does not teach determining if the portion of computer code is currently being compiled and redirecting the call to an interpreter, if the portion of computer code is currently being compiled". Examiner respectfully disagrees. Specifically Crelier states that when a callee method has "not yet compiled", the compiled code slot stores a callback pointer into the interpreter (col. 12 line 57 - col. 13 line 3). While it is noted that this method of redirection to the interpreter allows compilation of a method that has not been previously compiled, it also supports redirection to the interpreter for methods that have compilation ongoing. That is, Crelier's teaching of calling back to the interpreter if "the callee method is not yet compiled at that point", does not preclude that the compilation of the method is ongoing. That is, the compilation could either not have begun, or be ongoing. In either case, the call is redirected to the interpreter, as claimed.

Additionally, Applicant argues on page 11 that "Crelier teaches away from using a Java interpreter by implementing a system where methods are compiled, stored, and compared to incoming method calls". Examiner respectfully disagrees. That is, Crelier teaches the use of the Java interpreter to aid in compiling the method call is compilation is enabled, and otherwise interpreting the method. In either case, for a method that has not yet been compiled, or has compilation ongoing, the interpreter aids in the invocation of the callee method.

Additionally, Applicant argues on page 12 that "[w]hile Crelier may teach setting an invoker slot, it is not performed in determination that the portion of computer code is currently being compiled". While it is noted that the flag may not explicitly indicate that compilation is ongoing, the invoker slot indicates whether or not compilation of a called method is complete. Thus, the indication that compilation has not completed would inherently include conditions where the method has not been previously called, or where compilation is ongoing but has yet to finish.

Applicant further submits on page 13, "Nowhere in...Crelier, is it taught to determine if compilation of the portion of computer code has ended and redirect the call to a compiled version of the portion of computer code if the compilation of the portion of computer code has ended". Examiner respectfully disagrees. Specifically, where Crelier indicates that the compiled version of computer code is called is in response to the compiled code being available, it would not be possible to call the compiled version if the compilation had not completed at some previous point.

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